

AMENDED IN SENATE AUGUST 29, 2013

Senate Resolution

No. 16

Introduced by ~~Senator Lieu~~ *Senators Lieu and Anderson*

August 12, 2013

Senate Resolution No. 16—Relative to Section 215 of the USA PATRIOT Act.

1 WHEREAS, Section 215 of the USA PATRIOT Act (50 U.S.C.
2 Sec. 1861) authorizes the government to collect “tangible things”
3 that are “relevant” to an authorized national security investigation;
4 and
5 WHEREAS, The National Security Agency (NSA) has
6 reportedly used Section 215 to collect metadata on every telephone
7 call made or received by every American over the last seven years;
8 and
9 WHEREAS, This metadata collected by the NSA was not limited
10 to dialed numbers, but also included the telephone numbers of
11 incoming calls, the times of calls, and call routing information;
12 and
13 WHEREAS, *The federal Foreign Intelligence Surveillance Act*
14 *(FISA) Court found in 2011 that the NSA illegally collects tens of*
15 *thousands of Internet transactions between Americans within the*
16 *United States in violation of the Fourth Amendment to the United*
17 *States Constitution; and*
18 WHEREAS, *Until 2011, the FISA Court, charged with the*
19 *judicial oversight of the NSA to ensure no laws are broken, was*
20 *unaware of the acquisition of tens of thousands of Internet*
21 *transactions involving Americans within the United States who*
22 *were not connected to any legitimate investigation; and*

1 WHEREAS, Many legislators who voted for the USA PATRIOT
2 Act, including the past chairman of the authorizing committee of
3 that law, have stated that the NSA’s blanket surveillance program
4 goes far beyond what the USA PATRIOT Act was intended to do;
5 and

6 *WHEREAS, The government revelation in 2011 regarding the*
7 *NSA’s acquisition of Internet transactions marked the third*
8 *instance in less than three years in which the government had*
9 *disclosed a substantial misrepresentation regarding the scope of*
10 *a major collection program; and*

11 WHEREAS, The Director of National Intelligence, James
12 Clapper, Jr., has admitted to misleading Congress about the actual
13 scope of the call record surveillance program; and

14 WHEREAS, Section 215 is silent as to how the government
15 may use these records once it has obtained them; and

16 WHEREAS, The Fourth Amendment to the United States
17 Constitution states: “The right of the people to be secure in their
18 persons, houses, papers, and effects, against unreasonable searches
19 and seizures, shall not be violated, and no warrants shall issue, but
20 upon probable cause, supported by oath or affirmation, and
21 particularly describing the place to be searched, and the persons
22 or things to be seized”; and

23 WHEREAS, The United States Constitution, including the
24 Fourth Amendment, applies at all times to all government agencies
25 and all government employees; and

26 WHEREAS, All Americans cannot reasonably be considered
27 to be suspicious simply for making or receiving telephone calls;
28 and

29 WHEREAS, The NSA’s seizure of the telephone records of all
30 Americans is therefore an “unreasonable seizure” by any definition
31 of the term; and

32 *WHEREAS, An NSA audit, dated May 2012, counted 2,776*
33 *incidents in the preceding 12 months alone of unauthorized*
34 *collection, storage, access to, or distribution of legally protected*
35 *communications; and*

36 *WHEREAS, On June 7, 2013, United States Senator Rand Paul*
37 *introduced legislation, the Fourth Amendment Restoration Act of*
38 *2013 (S. 1121), that would explicitly state that the Fourth*
39 *Amendment to the Constitution shall not be construed to allow*
40 *any agency of the United States Government to search the*

1 *telephone records of Americans without a warrant based on*
2 *probable cause; and*

3 WHEREAS, The bipartisan Amash-Conyers amendment to the
4 Department of Defense Appropriations Act (H.R. 2397) would
5 have ended the NSA's blanket seizure of the telephone records of
6 Americans, but was narrowly defeated on July 24, 2013; and

7 WHEREAS, On August 1, 2013, United States Senator Al
8 Franken introduced legislation, the Surveillance Transparency Act
9 of 2013 (S. 1452), that would expand and improve ongoing
10 government reporting about programs under the USA PATRIOT
11 Act and the Foreign Intelligence Surveillance Act and make it
12 easier for companies to voluntarily disclose information about the
13 data the government requires them to collect; now, therefore, be
14 it

15 *Resolved by the Senate of the State of California,* That the Senate
16 urges the President and the Congress of the United States to pass
17 legislation to end the NSA's blanket, unreasonable, and
18 unconstitutional collection of Americans' telephone records *and*
19 *Internet transactions* and specifically to bar the NSA and other
20 agencies from using Section 215 of the USA PATRIOT Act to
21 collect records, including ~~telephone records~~, *records and Internet*
22 *transactions*, pertaining to persons not subject to an investigation
23 under the USA PATRIOT Act; and be it further

24 *Resolved,* That the Secretary of the Senate transmit copies of
25 this resolution to the President and Vice President of the United
26 States, to the Speaker of the House of Representatives, to the
27 Majority Leader of the Senate, and to each Senator and
28 Representative from California in the Congress of the United
29 States, and to the author for appropriate distribution.

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